

**TESTIMONY OF JONATHAN FLEMING
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DEPARTMENT OF HOMELAND SECURITY
BEFORE THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON AVIATION
U.S. HOUSE OF REPRESENTATIVES
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Good morning Chairman Mica, Representative DeFazio, and other distinguished Members of the Subcommittee. Thank you for inviting me to testify regarding the Department of Homeland Security's aviation security policies for the National Capital Region and specifically the events surrounding the June 9, 2004, flight of a Kentucky State aircraft in the National Capital Region that led to the evacuation of the Capitol building. I am pleased to appear before you, along with my colleague from the Federal Aviation Administration (FAA), to testify on these important matters.

I want to begin by saying that we have come a long way since September 11th toward improving aviation security in the National Capital Region. To protect and monitor the National Capital Region, a layered airspace security system has been established. This system addresses the threat environment in the National Capital Region. In February 2003, an approximately 30-mile outer airspace ring, known as the Air Defense Identification Zone (ADIZ), was established around Washington. The footprint of the ADIZ mirrors the Baltimore-Washington Class B airspace. In order to operate within the ADIZ, operators must file a flight plan, transmit a discrete beacon code, and maintain 2-way radio communication with air traffic control. The Federal Aviation Administration (FAA), which is the lead agency for establishing the ADIZ, is working closely with TSA, DHS, and stakeholders to refine procedures for entering and operating within the ADIZ. TSA strongly supports continuing the ADIZ and is assisting FAA with compiling a report describing the necessity for the ADIZ, as required by Section 602 of Vision 100. There is also an inner ring of airspace, known as the Flight Restricted Zone (FRZ), which has a radius of approximately 15 nautical miles centered on the Reagan National Airport navigational beacon.

The National Capital Region Coordination Center (NCRCC) is an integral component of the layered aviation security system for the National Capital region. The NCRCC is an interagency group comprised of a number of agencies whose unified actions create a layered enforcement structure to enhance airspace security for the NCR. There are six (6) agencies that provide daily representation in the NCRCC including: the FAA, the U.S. Secret Service, the U.S. Capitol Police, U.S. Immigration and Customs Enforcement, the Department of Defense, and TSA. Other agencies, such as the FBI, are key participants during major events or surge operations.

The NCRCC is responsible for coordinating the operations of all participating agencies to ensure airspace security within the defined limits of the ADIZ. The NCRCC was

established by the Homeland Security Council Policy Coordinating Committee (the “PCC”) and the PCC continuously assesses airspace protection issues surrounding the Washington, D.C. and other areas of the U.S. Each agency that participates within the NCRCC maintains its own organic capabilities and reserves complete command and control over operational and tactical matters that fall within that agency’s respective statutory authorities. The NCRCC does not infringe upon an agency’s operational or tactical employment of its assets, nor does it have command and control over them. TSA, as the Executive Agent for the NCRCC, is responsible for deconflicting information, disseminating relevant transportation security intelligence, documenting the activities of the NCRCC, and providing the physical infrastructure to accommodate NCRCC operations, to ensure that the participating agencies are responsive to and balanced with the emerging requirements of the threat.

When an unidentified aircraft approaches the Washington, D.C. ADIZ, radar operators at one or all of the monitoring agencies, including the U.S. Immigration and Customs Enforcement (ICE) Air and Marine Operations Center in Riverside, CA, DoD’s Northeast Air Defense Sector headquarters in Rome, NY, and the FAA, begin to actively track it. As it enters the ADIZ, one of the monitoring organizations announces the aircraft’s presence on the Domestic Events Net (DEN), an interagency open line of communications that is continually available. The aircraft’s position course, speed, and—if known—transponder “squawk” code and altitude, are broadcast on the DEN in this initial report. Immediately after the initial report, the FAA’s Washington Operations Center will acknowledge the report and assign a Track of Interest (TOI) number. The TOI number simply establishes a common identifier to be used in interagency communications regarding the track. Once a TOI has been identified and numbered, the agency representatives in the NCRCC each perform their respective duties.

The TSA representative to the NCRCC has a specific role to play when an unidentified aircraft approaches the ADIZ. He or she is responsible for notifying the Transportation Security Operations Center (TSOC) Command Duty Officer (CDO) of the situation, who in turn decides whether additional notifications are necessary. If necessary, the CDO may choose to notify senior TSA and DHS officials. The TSA NCRCC representative also has the responsibility to record a timeline of the events that take place, in addition to monitoring the DoD and ICE radar feeds to assess the threat. Finally, the TSA representative will also monitor the DEN to answer questions from other agencies, to enhance interagency situational awareness, and to gather information for documenting the incident. The NCRCC has brought additional capabilities in monitoring non-commercial aviation aircraft, e.g. general aviation, corporate/business aviation in the Washington, D.C. area, as such aircraft were not (previously) required to maintain radio and altitude reporting requirements with the FAA. Commercial-aviation aircraft are required to file flight plans and maintain continuous contact with FAA controllers.

I would like to turn now to the specifics of the event that occurred on June 9, 2004. On June 9th, the National Capitol Region was in an increased security posture due to the events leading up to and including the State Funeral for President Reagan. An aircraft with tail number “N24SP” entered the Washington, D.C. Air Defense Identification

Zone. N24SP was on a proper flight plan and had requested and received a waiver to fly into Reagan National Airport. The flight was monitored by the FAA's Potomac TRACON. However, the aircraft's transponder was not squawking. The "primary only" target, meaning radar display of an aircraft with no identification, was announced on the DEN at 4:24 p.m. (Eastern Daylight Savings Time) by ICE Radar and the flight was subsequently continuously monitored by the NCRCC. Pursuant to protocol and procedures, the U.S. Immigration and Customs Enforcement subsequently launched a Blackhawk helicopter to be ready to intercept the unidentified aircraft. As we know, the unidentified aircraft turned out to be flight N24SP. The entry of N24SP into the Restricted Airspace over the National Capital Region resulted in precautionary security measures being taken on the ground and in the air.

This incident emphasizes the importance of the NCRCC to our layered airspace security defenses and the need for constant reassessment of intra and interagency operational methods and procedures. TSA is fully committed to ensure the highest standards of airspace security are met both for the nation and for our citizens.

Lastly, I would like to provide you with an update on the issue of general aviation and charter flight operations in and out of Reagan National Airport. Given the criticality of assets in the Washington, D.C. area, the seriousness of the threat, and the magnitude of the impact of any terrorist action in the region, it is DHS's view that any plan developed in response to the Vision 100 requirement must include measures sufficient to ensure the security of the National Capital Region.

We must carefully balance the desire to reopen Reagan National Airport to GA with the need to protect our Nation's capital against those who wish to do us harm. The National Capital Region remains a target for terrorists. As the home to the Federal government, as well as foreign embassies, multinational institutions, and national monuments, the region offers a plethora of high value, symbolic targets for those who seek to harm us. The protection of these assets, as well as the lives of travelers and those who live in this region, is not only our priority, but also our duty.

We are currently not aware of any specific information regarding terrorist plans to use GA aircraft to strike targets in the National Capital Region. Nonetheless, we have maintained the restrictions on GA flights because the vast majority of GA operations do not meet the same security measures being applied to air carriers operating large aircraft. However, TSA recognizes that certain exceptions must be made. Accordingly, a process has been implemented whereby some general aviation and commuter aircraft are permitted access into Reagan National Airport on a case-by-case basis. The waiver program is an inter-agency process in which TSA and FAA work closely together to ensure that the National Capital Region airspace remains secure while at the same time allowing a limited number of GA flights to operate within the FRZ or into Reagan National Airport. These waivers are issued on a very limited basis for very specific purposes and only when very stringent security procedures have been implemented.

For GA planes that operate in or out of DCA, a waiver request must be filed with TSA. Once a submission is received, TSA determines whether the applicant satisfies one of the three possible categories that would make an applicant eligible for a waiver, based upon the requested purpose and need for a waiver. Those categories include special/classified operations, government operations, and elected officials. If an applicant does not fit into one of these three categories, he or she is not eligible for a waiver and TSA does not forward the waiver request to the FAA. However, if the applicant is eligible, the pilot and crew are vetted through the FBI National Crime Information Center (NCIC), terrorist databases, and the No-Fly and Selectee lists to ensure that known or potential threats are not given waivers. Passengers are also checked against the No-Fly and Selectee lists.

If these checks come back without derogatory information, an approval number is assigned to the flight and a waiver request form is drafted for delivery to the FAA. If the FAA approves and issues a waiver, the TSA Office of Airspace Security inputs the waiver into the "Master List" and then notifies the FAA, NCRCC, and Potomac TRACON of the waiver authorization.

All waivers are issued with strict compliance instructions for the pilot. Specifically, no later than one hour prior to flight, the pilot of a scheduled waived flight is required to contact both the NCRCC and Potomac TRACON in order to inform both entities of the intended flight plan. The waiver also outlines other communications requirements related to operations in the area. When a flight with a waiver is operating within or approaching the ADIZ or FRZ, the NCRCC, based at TSA's TSOC, can track the flight and determine the identity of the aircraft based upon the information provided before the flight and if the aircraft's transponder is squawking. Additional security protections exist in that all general aviation flights that operate into and out of Reagan National Airport must have armed law enforcement officer on board.

Chairman Mica, Representative DeFazio, and other distinguished Members of the Subcommittee, this concludes my prepared statement. I would be pleased to answer any questions at this time.